

RD AN No. 3836 (1924-A)
March 26, 2003

TO: All State Directors
Rural Development

ATTN: Rural Housing Program Directors and
Multifamily Housing Coordinators

FROM: Arthur A. Garcia *(Signed by James E. Selmon III)* *for*
Administrator
Rural Housing Service

SUBJECT: MFH Lead-Based Paint Risk Assessment Schedule

PURPOSE/INTENDED OUTCOME:

This Administrative Notice (AN) provides guidance to Rural Development staff on implementation of Subpart D--"Project-Based Assistance Provided by a Federal Agency Other Than HUD" of the Housing and Urban Development's (HUD) Final Rule on Lead-Based Paint Hazards in Federally Owned Housing and Housing Receiving Federal Assistance (hereinafter, the "LBP regulation"). This clarifies the Agency's schedule for conducting lead-based paint risk assessments on multi-family residential complexes constructed before 1978. The complex must receive more than \$5,000 annually in project-based assistance, which includes rental assistance, to be covered by these requirements.

COMPARISON WITH PREVIOUS AN:

This is a reissue of RD AN 3703 (1924-A), dated February 5, 2002, which expired February 28, 2003, that relates to Subpart D of the LBP regulation adopted by Rural Development in AN 3593 (1924-A) issued on December 1, 2000.

EXPIRATION DATE:
March 31, 2004

FILING INSTRUCTIONS:
Preceding RD Instruction 1924-A

BACKGROUND:

Rural Development adopted the following subparts of the LBP regulation:

- **Subpart A**--Disclosure of Known Lead-Based Paint and/or Lead-Based Paint Hazards Upon Sale or Lease of Residential Property
- **Subpart B**--General Lead-Based Paint Requirements and Definitions for All Programs
- **Subpart C**--Disposition of Residential Property Owned by a Federal Agency Other Than HUD
- **Subpart D**--Project-Based Assistance Provided by a Federal Agency Other Than HUD
- **Subpart J**--Rehabilitation (RD adopted Sections)
- **Subpart R**--Methods and Standards for Lead-Based Paint Hazard Evaluation and Hazard Reduction Activities.

These subparts replace what is presently in RD Instruction 1924-A, Exhibit H, and take precedence over what is presently in all Rural Development Instructions and Handbooks concerning lead-based paint. The requirements of these subparts are applicable to all housing constructed prior to 1978 that is financially assisted by the Agency or is being sold by the Agency.

Subpart D--"Project-Based Assistance Provided by a Federal Agency Other Than HUD" requires each owner of a Rural Development complex receiving more than \$5,000 annually per project in project based assistance, including rental assistance, to complete a risk assessment in accordance with the schedule established by Rural Development. In the case of MFH inventory properties, the Agency assumes the owner's responsibilities.

IMPLEMENTATION RESPONSIBILITIES:

All requirements of Subpart D--"Project-Based Assistance Provided by a Federal Agency Other Than HUD" shall be met.

The owners of all multifamily residential complexes constructed after 1959 and before 1978 that receive more than \$5,000 annually per complex in project based assistance, including rental assistance, shall complete a risk assessment on or before September 15, 2003. This completion date is consistent with the date established by HUD in the regulation. Buildings constructed before 1978 and later remodeled or rehabilitated to serve as housing must comply with these requirements. For multifamily complexes constructed before 1960 the owner should have completed a risk assessment on or before September 15, 2002. Each State office shall determine if the owners of those multifamily complexes constructed before 1960 have completed a risk assessment on their complex. In cases where the risk assessment has not been completed the owner may be subject to the Section 35.17, Enforcement, and Section 35.170, Noncompliance with the Requirements of Subparts B Through R.

Each owner shall complete a risk assessment in accordance with Subpart R Section 35.1320 (b) and EPA requirements in 40 CFR 745.227 (d).

Rural Development field staff shall identify all multifamily complexes constructed before 1978 and 1960 (if a risk assessment has not been completed) in their area and notify the complex owners of the requirements of Subpart D--"Project-Based Assistance Provided by a Federal Agency Other Than HUD." Rural Development field staff shall track and keep records of the completion of all risk assessments by multifamily complex owners.

When completing the Civil Rights Impact Analysis, Form RD 2006-38, Rural Development employees will document compliance with LBP requirements on the form.

We encourage you to work closely with your State Lead-Based Paint Support Team and with each MFH complex owner to ensure lead-based paint policies and procedures are effectively integrated with loan processing and servicing activities. Should you have questions on this AN or on other lead-based paint issues, please call Edith Brown at (202) 720-3187, Sam Hodges at (202) 720-9647, or Brian LaFlamme at (202) 720-9656.